

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

SHAROD J. WORTHEN,

Plaintiff,

vs.

AFTERMATH INC.,

Defendant.

Case No. 2:11-cv-00344-RLH-PAL

**ORDER**

(Mtn to Appoint - Dkt. #13)  
(Mtn for CM/ECF Access - Dkt. #14)

This matter is before the court on Plaintiff Sharod J. Worthen's Motion for Appointment of Counsel (Dkt. #13) and Motion for *Pro Se* Litigant to File Electronically (Dkt. #14), both filed July 11, 2011.

**I. Motion to Appoint Counsel (Dkt. #13).**

Plaintiff requests counsel based on the fact that he is indigent and cannot afford to retain counsel. He also asserts that he is not a trained attorney, has limited knowledge of the judicial system, and is ignorant of the judicial rules. Plaintiff's Complaint (Dkt. #1) filed March 4, 2011, seeks relief under Title VII of the Civil Rights Act of 1964 based on alleged racial discrimination in his employment.

Under 42 U.S.C. § 2000e-5(f)(1), "[u]pon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs or security." Under established Ninth Circuit law, the court must assess the following three factors in exercising its discretion as to whether to appoint counsel: (1) whether the plaintiff financially is able to retain counsel; (2) whether the plaintiff has made a reasonably diligent effort under the circumstances to

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1 obtain counsel; and (3) whether the plaintiff's claim has potential merit. *See, e.g., Bradshaw v.*  
 2 *Zoological Society of San Diego*, 662 F.2d 1301,1318-20 (9th Cir. 1981).

3 Plaintiff has not established that he is financially unable to retain counsel. Plaintiff has also not  
 4 provided the court with sufficient information to determine what efforts he has made to obtain counsel,  
 5 including efforts to obtain an attorney on a contingent fee basis. The court will, therefore, deny the  
 6 request for appointment of counsel without prejudice to his filing a new motion which addresses the  
 7 three factors the court is required to apply. The motion shall be supported by an affidavit or sworn  
 8 declaration which describes the efforts Plaintiff has made to retain counsel. Additionally, the court will  
 9 require the plaintiff to complete and sign a CJA 23 Financial Affidavit form to determine whether  
 10 Plaintiff is financially able to retain counsel. As Plaintiff's motion has not addressed the first two  
 11 factors, the court need not address whether Plaintiff's claim has potential merit for purposes of this  
 12 motion.

## 13 **II. Motion for CM/ECF Access (Dkt. #14).**

14 Plaintiff also requests access to CM/ECF to file, access, and electronically serve documents in  
 15 this case. Good cause appears to grant the relief requested in this Motion.

16 Having reviewed and considered the matter,

### 17 **IT IS ORDERED:**

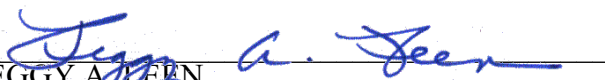
- 18 1. Plaintiff's Request Motion for Appointment of Counsel (Dkt. #13) is DENIED without  
 19 prejudice.
- 20 2. Plaintiff may file a new motion for appointment of counsel which must be supported by  
 21 an affidavit or sworn declaration which establishes his financial inability to retain  
 22 counsel and whether the plaintiff has made a reasonably diligent effort under the  
 23 circumstances to obtain counsel.
- 24 3. The Clerk of the Court shall send plaintiff a blank CJA 23 Financial Affidavit form.
- 25 4. Plaintiff's Motion for CM/ECF Access (Dkt. #14) is GRANTED. Plaintiff must comply  
 26 with the following procedures in order to activate his CM/ECF account:
  - 27 a. On or before **August 19, 2011**, Plaintiff must provide certification that he has  
 28 completed the CM/ECF tutorial and is familiar with Electronic Filing

1 Procedures, Best Practices, and the Civil & Criminal Events Menu that are  
2 accessible on this court's website, [www.nvd.uscourts.gov](http://www.nvd.uscourts.gov).

3 b. Plaintiff is not authorized to file electronically unless the certification is filed  
4 with the court within the time frame specified.

5 c. Upon timely filing of the certification, Plaintiff shall contact Robert Johnson at  
6 the CM/ECF Help Desk at (702) 464-5555 to set up a CM/ECF account.

7 Dated this 19th day of July, 2011.

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11 PEGGY A. LEEN  
12 UNITED STATES MAGISTRATE JUDGE  
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